

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

BRUCE CORKER d/b/a RANCHO ALOHA, *et al*;

Plaintiffs,

v.

MULVADI CORPORATION, *et al*.

Defendants.

NO. 2:19-cv-00290

**MOTION FOR ATTORNEYS’  
FEES AND COSTS**

Noting Date: August 12, 2022

On July 6, 2022, this Court granted in part Plaintiffs’ motion for dispositive sanctions against Defendant Mulvadi Corporation, Inc. *See* Dkt. 677. Among other relief, the Court awarded Plaintiffs their reasonable attorneys’ fees and costs associated with several filings and litigation activities necessitated by Mulvadi’s conduct: their first motion to compel (Dkt. 188), including the related meet and confer process (“First Motion to Compel”); Mulvadi’s motion for reconsideration (Dkt. 252) (“Reconsideration Motion”); Plaintiffs’ motion for contempt (Dkt. 319) (“Contempt Motion”); and Plaintiffs’ motion for dispositive sanctions (Dkt. 546) (“Sanctions Motion”) (herein collectively the “Mulvadi Motions”). *See* Dkt. 677 at 19. As detailed further below and in the attached declarations, Plaintiffs’ efforts to obtain Mulvadi’s compliance with its discovery obligations have spanned nearly three years, have resulted in numerous hours of attorney time, and have caused Plaintiffs to incur significant costs. Plaintiffs respectfully request an attorney fee and

cost award of \$160,745.50 for all costs and fees associated with the Mulvadi Motions and this Motion for Fees.

## I. ARGUMENT

### A. The Fees and Costs Requested are Reasonable

Consistent with the Court's direction, Plaintiffs set out below the fees and costs incurred in connection with the Mulvadi Motions and preparing this Motion for Fees.

#### **Fees and costs associated with Plaintiffs' first motion to compel (Dkts. 183-204):<sup>1</sup>**

Karr Tuttle Campbell	64.10 hours @ \$275 – \$595 per hour	\$26,378
Lieff Cabraser Heimann & Bernstein	7.7 hours @ \$585 - \$755 per hour	\$5,198.50
Costs		N/A
<b>Total fees and costs</b>		<b>\$31,576.50</b>

#### **Fees and costs associated with Mulvadi's motion for reconsideration (Dkt. 252-274):**

Karr Tuttle Campbell	3.4 hours @ \$520 – \$620 per hour	\$2,028
Lieff Cabraser Heimann & Bernstein	7.2 hours @ \$585 - \$755 per hour	\$4,445.50
Costs		N/A
<b>Total fees and costs</b>		<b>\$6,473.50</b>

#### **Fees and costs associated with Plaintiffs' motion for contempt (Dkt. 319 - 340):**

Karr Tuttle Campbell	46.6 hours @ \$250 – \$520 per hour	\$17,995
Lieff Cabraser Heimann & Bernstein	0.90 hours @ \$585 - \$755 per hour	\$577.50

<sup>1</sup> The docket ranges identified are intended to include only the opening Motions and responsive briefing. Plaintiffs are not seeking fees associated with any unrelated filings that happen to fall within the identified docket ranges.

Costs	N/A
<b>Total fees and costs</b>	<b>\$18,572.50</b>

**Fees and costs associated with the motion for dispositive sanctions (Dkt. 544 - 561):**

Karr Tuttle Campbell	107.90 hours @ \$275 – \$520 per hour	\$49,217
Lieff Cabraser Heimann & Bernstein	48.3 hours @ \$360 - \$755 per hour	\$30,860.50
Costs		\$5,842.50
<b>Total fees and costs</b>		<b>\$85,920.00</b>

**Fees and costs associated with preparing this motion for fees**

Karr Tuttle Campbell	46.6 hours @ \$325 – \$550 per hour	\$16,197.50
Lieff Cabraser Heimann & Bernstein	1.9 hours @ \$690 - \$755 per hour	\$1,395.50
Costs		N/A
<b>Total fees and costs</b>		<b>\$18,193.00</b>

*i. The hourly rates charged by Plaintiffs' attorneys are reasonable.*

The first step of analyzing a fee petition is to ensure that the hourly rates are reasonable. *See, e.g., Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008). Plaintiffs' counsel previously submitted evidence to this Court establishing the reasonableness of their rates in support of prior fee petitions, Dkt. 416 at ¶ 18; Dkt. 417 at ¶ 23; Dkt. 528 at ¶ 2-4; Dkt. 655 at ¶ 3; Dkt. 656 at ¶ 15-16, all of which the Court granted, Dkt. 477; Dkt. 664; Dkt. 671. Thus, the Court has previously determined on multiple occasions that the Plaintiffs' counsel's hourly rates are reasonable.

***ii. The hours requested by Plaintiffs' attorneys are reasonable.***

The second step in analyzing the fee petition is to ensure the number of hours requested by the attorneys are reasonable. *Jordan v. Multnomah County*, 815 F.2d 1258, 1263 n.8 (9th Cir. 1987). Plaintiffs' counsel keeps contemporaneous and detailed time records for all time spent in this matter. Paine Decl. at ¶ 9; Lichtman Decl. at ¶ 8. Plaintiffs' counsel also reviews and scrutinizes all time entries to ensure that there is not any excessive, redundant, or otherwise unnecessary time billed. Paine Decl. at ¶ 9; Lichtman Decl. at ¶ 8. Plaintiffs' counsel conducts this review on a regular monthly basis, and then repeated this meticulous review prior to all fee petitions to ensure the reasonableness of the hours expended. Paine Decl. at ¶ 9; Lichtman Decl. at ¶ 8. As further established below, the hours associated with the Mulvadi Motions were reasonable and necessarily incurred in dealing with Mulvadi's refusal to comply with its discovery obligations and this Court's orders since the start of discovery in this case.

***a. The hours associated with the First Motion to Compel are reasonable.***

In this matter, Plaintiffs' counsel spent a total of 71.8 hours on work related to the First Motion to Compel, including time associated with the meet and confer process (Dkt. 183). Paine Decl. at ¶ 3; Lichtman Decl. at ¶ 3. This included significant time dedicated to attempting to obtain Mulvadi's compliance with its discovery obligations, drafting of the First Motion to Compel, legal research, and drafting the reply in support of the First Motion to Compel. Paine Decl. at ¶ 3; Lichtman Decl. at ¶ 3. Notably, Plaintiffs spent numerous months attempting to get Mulvadi to comply with its discovery obligations prior to bringing the First Motion to Compel. Paine Decl. at ¶ 3. Plaintiffs' counsel incurred a total of \$31,576.50 in attorney fees associated with the First Motion to Compel. Paine Decl. at ¶ 3; Lichtman Decl. at ¶ 3.

Plaintiffs are not requesting any of the costs incurred for the First Motion to Compel. Paine Decl. at ¶ 3; Lichtman Decl. at ¶ 3.

***b. The hours associated with the Reconsideration Motion are reasonable.***

Plaintiffs' counsel spent a total of 10.6 hours on work related to Mulvadi's Reconsideration Motion (Dkt. 252). Paine Decl. at ¶ 4; Lichtman Decl. at ¶ 4. This included time associated with independently investigating the factual assertions made by Mulvadi to support its motion as well as preparing the opposition to Mulvadi's Reconsideration Motion. Paine Decl. at ¶ 4; Lichtman Decl. at ¶ 4. Plaintiffs' incurred a total of \$6,473.50 in attorney fees associated with Mulvadi's Reconsideration Motion. Paine Decl. at ¶ 4; Lichtman Decl. at ¶ 4. As noted in Plaintiffs' opposition, Mulvadi had only produced five pages of documents over a year after the commencement of this action, despite this Court's order and Plaintiffs' persistent efforts to obtain Mulvadi's cooperation and compliance with its discovery obligations. Dkt. 260 at ¶ 8.

Plaintiffs are not requesting any of the costs incurred for the Reconsideration Motion. Paine Decl. at ¶ 4; Lichtman Decl. at ¶ 4.

***c. The hours associated with the Contempt Motion are reasonable.***

Plaintiffs' counsel spent a total of 47.5 hours on work related to Plaintiffs' Contempt Motion (Dkt. 319). Paine Decl. at ¶ 5; Lichtman Decl. at ¶ 5. This included time associated with months of meet-and-confer efforts attempting to obtain Mulvadi's voluntary compliance with this Court's order compelling Mulvadi to produce its records in compliance with the stipulated ESI order (Dkt. 248), legal research, and the preparation of the Contempt Motion. Paine Decl. at ¶ 5; Lichtman Decl. at ¶ 5. Only after Plaintiffs filed the Contempt Motion did Mulvadi begin to make any real effort to comply with the Court's order compelling the production of the 40+ boxes of documents. Paine Decl. at ¶ 6. After the documents were finally produced, Plaintiffs withdrew the Contempt Motion. *Id.* That initial production of documents did not resolve the discovery dispute, but instead unveiled the fact that Mulvadi's repeated representations to that point concerning the lack of any ESI were false. *Id.* Eighteen months into the case, it was now clear for the first time that Mulvadi conducted business through QuickBooks and regularly maintained relevant

1 electronic accounting records. *Id.* Plaintiffs incurred a total of \$18,572.50 in attorney fees  
 2 associated with Plaintiffs' motion for contempt. Paine Decl. at ¶ 5; Lichtman Decl. at ¶ 5.

3 Plaintiffs are not requesting any of the costs incurred for the Contempt Motion. Paine Decl.  
 4 at ¶ 5; Lichtman Decl. at ¶ 5.

5 ***d. The hours associated with the Sanctions Motion are reasonable.***

6 Plaintiffs' counsel spent a total of 156.2 hours on work related to Plaintiffs' Sanctions  
 7 Motion (Dkt. 544). Paine Decl. at ¶ 7; Lichtman Decl. at ¶ 6. This included time associated with  
 8 numerous meet-and-confer conferences attempting to obtain Mulvadi's compliance with this  
 9 Court's order compelling Mulvadi to grant Plaintiffs' expert access to its QuickBooks (Dkt. 487),  
 10 legal research, working with Plaintiffs' expert to secure Mulvadi's production of its QuickBooks  
 11 data, and the preparation of the Sanctions Motion and the reply. Paine Decl. at ¶ 6; Lichtman Decl.  
 12 at ¶ 6. Plaintiffs incurred a total of \$80,077.50 in attorney fees associated with Plaintiffs' motion  
 13 for dispositive sanctions. Paine Decl. at ¶ 7; Lichtman Decl. at ¶ 6.

14 In addition, Plaintiffs incurred \$5,842.50 in costs for Plaintiffs' expert's time and the time  
 15 of a private investigator.<sup>2</sup> Paine Decl. at ¶ 8. Plaintiffs' expert billed Plaintiffs \$5,092.50 for time  
 16 spent attempting to access Mulvadi's QuickBooks data, conferring with counsel and Mulvadi  
 17 regarding the production of unrestricted access to Mulvadi's QuickBooks data, and providing her  
 18 declaration in support of the Sanctions Motion. *Id.* Plaintiffs' private investigator billed Plaintiffs  
 19 \$750.00 for time spent investigating the locations photographed by Mulvadi's counsel and  
 20 identified by Mulvadi as the farm operated by Pacifica Services, one of Mulvadi's alleged sources  
 21 Kona coffee. *Id.* The investigation was necessary to determine the location of the farm  
 22 photographed by Mulvadi's counsel because Mulvadi had been evasive in responding to discovery  
 23 targeted at ascertaining the location of the Pacifica Services farm. *Id.*; Dkt. 676 (Order on sanctions  
 24 motion), at 9-10. Plaintiffs' counsel reviewed the costs of the expert and private investigator,  
 25 determined that they were reasonable, and paid their invoices in full. *Id.*

26 <sup>2</sup> The expert's qualifications and credentials were previously submitted to the Court. *See* Dkt. 507.

**B. Plaintiffs are Entitled to the Fees incurred in Preparing this Motion for Fees**

In addition to the fees and costs ordered by the Court, Plaintiffs respectfully request an award for fees incurred in preparing this Motion for Fees. The Western District of Washington aligns with many other Courts within the 9th Circuit in finding that fees incurred in drafting a petition for fees are recoverable as part of the fee reward. *Travelers Cas. & Sur. Co. v. Nova Contracting, Inc.*, No. 3:20-cv-05164-JLR, 2020 U.S. Dist. LEXIS 201010, at \*1 (W.D. Wash. Oct. 28, 2020) (“Recovery is also allowed for reasonable attorneys’ fees and costs incurred in preparing an application for an award of attorneys’ fees and costs”); *Ten Bridges, LLC v. Midas Mulligan, LLC*, No. C19-1237JLR, 2021 U.S. Dist. LEXIS 230291, at \*4 (W.D. Wash. Dec. 1, 2021) (“Reasonable fees incurred in preparing a fee petition are recoverable as part of a fee award.”). A failure to award fees for the time incurred in preparing a petition for fees would effectively dilute the value of the fees awarded. *Anderson v. Dir., Office of Workers Comp. Programs*, 91 F.3d 1322, 1325 (9th Cir. 1996) (“Such compensation must be included in calculating a reasonable fee because uncompensated time spent on petitioning for a fee automatically diminishes the value of the fee eventually received”).

***a. The hours associated with this Motion for Fees are reasonable.***

Plaintiffs’ counsel spent a total of 48.5 hours on work related to this Motion for Fees. Paine Decl. at ¶ 10; Lichtman Decl. at ¶ 8. This included time spent by counsel reviewing nearly three years of time entries for all time associated with the above-identified Motions and meet-and-confer efforts, revising and drafting the instant Motion for Fees and supporting documents, and conducting legal research. Paine Decl. at ¶ 10; Lichtman Decl. at ¶ 8. Plaintiffs incurred a total of \$18,193.00 in attorney fees associated with this Motion for Fees. Paine Decl. at ¶ 10; Lichtman Decl. at ¶ 8. Plaintiffs are not seeking any costs associated with this Motion for Fees.

## II. CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs their reasonable attorneys' fees and costs in the amount of \$160,745.50, representing the culmination of nearly three years of effort to get Mulvadi to comply with its discovery obligations and this Court's orders. A proposed form of an Order is submitted with this Motion.

Dated: July 26, 2022.

KARR TUTTLE CAMPBELL

s/ Nathan T. Paine

Nathan T. Paine, WSBA #34487  
Daniel T. Hagen, WSBA #54015  
Joshua M. Howard, WSBA #52189  
701 Fifth Avenue, Suite 3300  
Seattle, WA 98104  
Phone: 206.223.1313  
Email: npaine@karrtuttle.com  
dhagen@karrtuttle.com  
jhoward@karrtuttle.com

LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP

s/ Jason L. Lichtman

Jason L. Lichtman (*pro hac vice*)  
Daniel E. Seltz (*pro hac vice*)  
250 Hudson Street, 8th Floor  
New York, NY 10013-1413  
Phone: 212.355.9500  
Email: jlichtman@lchb.com  
dseltz@lchb.com

Andrew Kaufman (*pro hac vice*)  
222 2nd Avenue South, Suite 1640  
Nashville, TN 37201  
Phone: 615.313.9000  
Email: akaufman@lchb.com  
*Attorneys for Plaintiffs and the Proposed Class*



**CERTIFICATE OF SERVICE**

I, Rondi Moreau, affirm and state that I am employed by Karr Tuttle Campbell in King County, in the State of Washington. I am over the age of 18 and not a party to the within action. My business address is: 701 Fifth Avenue, Suite 3300, Seattle, Washington 98104. On this day, I caused to be filed with the Court a true and correct copy of the foregoing document via the Court's electronic filing system, which caused service of the document to all parties registered to receive notifications through CM/ECF.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge.

Executed on this 26<sup>th</sup> day of July 2022 at Seattle, Washington.

s/Rondi C. Moreau  
Rondi C. Moreau  
Legal Assistant